

MEMORANDUM OF LAW

DATE: January 12, 1993

TO: Larry B. Grissom, Retirement Administrator

FROM: City Attorney

SUBJECT: Fluctuating Cost of Living Allowance

The 1992-93 salary ordinance adopted by the City Council on May 26, 1992, provides for a 2% increase in the prevailing scale of wages effective January 2, 1993, for all employees represented by the Police Officers' Association ("POA") and the Fire Fighters Association ("Local 145"). However, subsequent to adoption of the salary ordinance and as a result of the meet and confer process associated with the City-wide budget crisis, employees represented by Local 145 have agreed to be moved back one step on the salary scale effective January 2, 1993. This measure effectively results in a 5% reduction in salary for active fire safety members in our System.

In a memorandum dated December 18, 1992, you seek guidance with respect to how these events should influence the City Employees' Retirement System's ("CERS") treatment of those retired fire fighters who are included in the Special Safety Class Retiree classification which is entitled to a fluctuating Cost of Living Allowance ("COLA") benefit. Specifically, you ask whether you should reduce the retirement benefit of these retirees by 2.5%, increase their benefit by 1% or do nothing.

ANALYSIS

The fluctuating COLA benefit is enjoyed by a select class of retirees who were once members of the Firemen's Relief and Pension Fund or the Police Relief and Pension Fund. By a vote of the People which took place on April 15, 1947, effective May 1, 1947, both of these City Charter established funds were abolished and merged together into a newly established Police and Fire Retirement System. The fluctuating COLA benefit was not included in the Police and Fire Retirement System and to this date it has never appeared again as a benefit in any plan document administered by CERS. This explains why the vested benefit is enjoyed by only a small select class of retirees.

The fluctuating COLA benefit provisions of the City Charter

in effect prior to 1947 requires CERS to periodically increase or decrease the retirement allowance of Special Safety Class Members by one-half the percentage of any increase or decrease in the prevailing scale of wages of the rank which the retiree held at the time of retirement. (See attached copies of Charter in effect prior to 1947, sections 161 and 183.) Since the prevailing wage rate for employees represented by POA and Local 145 was increased by 2% effective January 2, 1993, CERS must process a 1% increase to the retirement allowance of all Special Safety Class Members, effective January 2, 1993.

Please contact me if you have any questions.

JOHN W. WITT, City Attorney

By

Richard A. Duvernay

Deputy City Attorney

RAD:mrh:352(x043.2)

Attachment

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